IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 34674 of 1997

DATED: 20.3.2007

Between:

Sri Kanakadurga Battery & Electrical Works petitioner

And

Government of A.P. rep by its Chief Secretary,
GAD Department, Secretariat, Hyderabad & 2 ors
Respondents

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO. 34674 OF 1997

ORAL ORDER:

This writ petition is filed questioning the proceedings of the third respondent dated 9.12.1997 requesting the petitioner to handover the vacant possession of the plot to corporation by 26.12.1997.

The facts in brief leading to filing the of the writ petition are as under.

The petitioner is a proprietary concern registered as small scale unit. It has submitted an application in prescribed proforma dt 3.12.1992 to the Municipal Corporation for allotment of site at Autonagar, Vijayawada. In turn, the petitioner firm was allotted plot bearing No.D/7 in survey no.175, Jawahar Auto Nagar, Vijayawada through allotment order dated 16.12.2995. In terms of the allotment, the petitioner firm paid a sum of Rs.3,40,000/- by way of pay order dated 16.12.1995 and took possession of the same and raised a shed to install the machinery. The petitioner alleges that at the time of allotment it was orally informed that the cost of the plot would be Rs.500/- per sq.yard and thereafter vide allotment letter it was informed that the cost of the plot is Rs.700/- per sq.yard. On the same day i.e., 16.12.1995, the petitioner has made a representation requesting the authorities to fix the cost of the plot at Rs.500/- per sq.yard. Thereafter the petitioner addressed a letter dated 24.12.1996 to the third respondent to reconsider the issue and fix the cost of the plot at

Rs.500/- per sq.meter and the same was negatived by the third respondent vide its letter dated 20.2.1997. While so, letter dated 24.10.1997 was issued directing the petitioner to pay the balance amount on or before 31.10.1997. Earlier the subject plot was allotted to one M/s. J.C.Graphics Private Limited and since the said allotee has not utilized the plot, the land was resumed and allotted to the petitioner. M/s. J C Graphics Private Limited, filed W.P. No. 29274 of 1995 and obtained interim direction in WPMP No. 36168 of 1995 to maintain status quo. In view of the subsistence of the interim orders, the petitioner could not develop the plot and ultimately, the said writ petition was dismissed by order dated 5.9.1996. The grievance of the petitioner is that the authorities had discriminated his case, inasmuch as similar plots were allotted to third parties fixing the rate in between Rs.400/- to Rs.500/-. Questioning the said action, the petitioner filed W.P. No. 32771 of 1997 and the same was disposed of by order dated 15.12.1997 directing the respondents to consider the representation of the petitioner. Thereafter, the impugned proceedings dated 9.12.1997 were passed directing the petitioner to hand over the vacant possession of the plot by 26.12.1997. Hence, the present writ petition.

Learned counsel for petitioner submitted that the earlier writ petition filed by the petitioner in W.P. No. 32771 of 1997 was disposed of by order dated 15.12.1997 directing the respondents to consider and dispose of the representation of the petitioner and without considering the representations of the petitioner, the impugned order was passed directing the petitioner to hand over the vacant possession. It is further submitted that in W.P. No. 29274 of 1995 filed by M/s. J C Graphics Private Limited, wherein the petitioner was arrayed as third respondents. Respondents filed a counter affidavit and admitted in the counter affidavit about the allotment of land in favour of

petitioner and payment of entire cost and handing over of the possession. It is also stated that the rate of the land in question is not more than Rs.500/- and having allotted the land to third parties at Rs.500/- the respondents are discriminating the petitioner and sought for interference.

This Court is not inclined to go into the factual aspects as regards the rate of the land etc. However, it is to be noted that the impugned order was passed on 9.12.1997 and this Court by order dated 15.12.1997 disposed of W.P. No. 32771 of 1997 directing the respondents to consider and dispose of the representation of the petitioner, thus it is clear that the impugned order was passed without considering the representation of the petitioner. Since the representations of the petitioner were not considered and no opportunity was given to the petitioner before passing impugned order, the same is liable to be set aside and is hereby set aside. The second respondent is directed to consider the representations of the petitioner dated 24.12.1996 and 15.3.1997 and pass appropriate orders in accordance with law expeditiously, preferably within a period of six weeks from the date of receipt of copy of this order. The petitioner is at liberty to raise all the grounds in support of his case including the stand taken by the respondents in W.P. No. 29274 of 1995.

Accordingly, the writ petition is allowed. No costs.

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GOPALA KRISHNA TAMADA, J

DATE: 20.3.2007
TVK

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